

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

WILLIE A. BARNES,

Plaintiff,

V.

ARDAGH GLASS, INC.,

Defendant.

CIVIL ACTION FILE NO.

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff, Willie A. Barnes, by and through undersigned counsel, The Kirby G. Smith Law Firm, LLC, and hereby files this Complaint, stating as follows:

I. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 over Count I of this Complaint, which arises out of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq. (“Title VII”).
2. This Court has personal jurisdiction over the parties because a substantial portion of the employment practices described herein were committed within Wilson County, North Carolina.
3. Plaintiff received his Notice of Right to Sue from the Equal Employment and Opportunity Commission (EEOC) and files this Complaint within the ninety (90) days prescribed.
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1331.

II. PARTIES

5. Plaintiff is a citizen of the United States and a resident of Texas.
6. Defendant is a Foreign Profit Corporation registered to conduct business in the state of North Carolina.
7. This Court has jurisdiction over the parties because a substantial portion of the employment practices described herein were committed within Wilson County, NC.
8. Defendant may be served by delivering a copy of the Complaint and Summons to its registered agent, CT Corporation System, located at 150 Fayetteville St, #1011, Raleigh, NC 27601.
9. Defendant employed fifteen (15) employees or more at all times relevant to this lawsuit.
10. Defendant is subject to the requirements of Title VII.

III. FACTUAL ALLEGATIONS

11. Plaintiff is an African American.
12. Plaintiff was employed by Defendant from March 19, 2012 to February 23, 2020.
13. During the events in question, Plaintiff was employed by Defendant as a Journeyman Mechanic.
14. In or around September 2019, Mr. Jason Adams became Plaintiff's supervisor.
15. On or about February 23, 2020, Plaintiff was instructed to get a defective mold from the mold oven.
16. The molds were made of cast iron.
17. The normal procedure for removing molds was to drop them into a mold cart.
18. Plaintiff did not realize the mold cart had been moved, which caused him to accidentally drop the defective mold on the ground.

19. Upon information and belief, the mold was not damaged.
20. Mr. Adams terminated Plaintiff for dropping the mold.
21. In or around November 2019, Mr. Shaun Reilly, Cacuasain, was caught on video intentionally throwing equipment off of a machine and onto the ground.
22. Mr. Adams was aware of Mr. Reilly's misconduct but did not terminate him.
23. Another Caucasian employee, Mr. Mark Pontonio, broke a mold oven door in anger.
24. Mr. Adams was aware of Mr. Pontonio's misconduct but did not terminate him.

IV. CLAIMS FOR RELIEF

COUNT I: TITLE VII DISCRIMINATION (RACE)

25. Plaintiff incorporates by reference paragraphs 1-24 of his Complaint as if fully set forth herein.
26. Plaintiff is a member of a protected class by virtue of his race.
27. Plaintiff was qualified for the position at issue.
28. Plaintiff suffered the adverse action of termination.
29. The facts plead herein describe discrimination based on race.
30. Plaintiff is aware of similarly-situated employees outside Plaintiff's protected class who were treated differently than Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

- a. Trial by jury;
- b. A finding that Defendant violated Plaintiff's rights as set forth herein;
- c. Full back pay plus interest, front pay, compensatory damages, punitive damages, reasonable attorney fees, and costs in accordance with Title VII; and
- d. Any other relief this Court deems proper and just.

Respectfully submitted this 8th day of June, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

/s/Alexander C. Kelly
Alexander C. Kelly
North Carolina Bar No. 49308
Attorney for Plaintiff

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JURY DEMAND

Plaintiff requests a jury trial on all questions of fact raised by this Complaint.

Respectfully submitted this 8th day of June, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

/s/Alexander C. Kelly

Alexander C. Kelly
North Carolina Bar No. 49308
Attorney for Plaintiff

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